

Introduced by: Williams

First Reading: January 12, 2004

Second Reading: January 28, 2004

Effective Date: January 28, 2004

**ORDINANCE NO. 2004-3**

**Recodification of *Takoma Park Code*,  
Chapter 1, General Provisions, and Chapter 2, Administration**

**WHEREAS**, the Council is reviewing the provisions of the Takoma Park Code as part of the City of Takoma Park's ongoing recodification project; and

**WHEREAS**, the Council has determined that Chapter 1, General Provisions, and Chapter 2, Administration, of the *Takoma Park Code* need to be revised and updated; and

**WHEREAS**, the Council desires to repeal the current provisions of Chapters 1 and 2 of the *Takoma Park Code* and to reenact revised Chapters 1 and 2.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND**, that, effectively immediately, *Takoma Park Code*, Chapters 1 and 2 are repealed in their entirety and replaced by the attached Chapter 1, General Provisions, and Chapter 2, Administration, to stand in place of the Chapters being repealed.

**Adopted this 28th day of January 2004, by roll-call vote as follows:**

**Aye:** Mayor Porter, Austin-Lane, Barry, Elrich, Seamens, Williams

**Nay:**

**Absent:** Mizeur

**Abstain:**

# TAKOMA PARK CODE

## GENERAL PROVISIONS

### CHAPTER 1. GENERAL PROVISIONS.

<del>§ 1-1.</del> § 1-100.	Designation and citation of the Code.
<del>§ 1-2.</del> § 1-101.	Rules of <del>interpretation.</del> construction and definitions.
§ 1-102.	Definitions.
<del>§ 1-3.</del> § 1-103.	Reference to <del>titles,</del> chapters, articles, or sections; <del>title of sections;</del> conflicting provisions Sections.
<del>§ 1-4.</del>	Headings and catchlines not to affect the meaning of any provision.
<del>§ 1-5.</del>	Code provisions as continuations of existing ordinances.
<del>§ 1-6.</del> § 1-104.	Effect of repeal of ordinances.
<del>§ 1-7.</del>	Interpretation of Section numbers.
<del>§ 1-8.</del> § 1-105.	Effect on past acts and obligations.
<del>§ 1-9.</del>	Same offense punishable by different Sections of Code.
<del>§ 1-10.</del> § 1-106.	Prohibited acts <del>include causing and permitting.</del> ;causing, abiding or concealing..
<del>§ 1-11.</del> § 1-107.	References includes amendments.
<del>§ 1-12.</del> § 1-108.	Acts by <del>agents or designees.</del> deputy.
<del>§ 1-13.</del>	Territorial applicability.
<del>§ 1-14.</del>	Notices, reports, statements, applications and records to be written in English.
<del>§ 1-15.</del>	Service of notice; proof of service.
<del>§ 1-17.</del> § 1-109.	Prosecuting Violations of the Charter, Code and regulations.
<del>§ 1-18.</del> § 1-110.	Warning notices.
<del>§ 1-19.</del> § 1-111.	Municipal infractions.
<del>§ 1-20.</del> § 1-112.	Misdemeanors.
§ 1-113.	Other remedies.
<del>§ 1-16.</del> § 1-114.	Severability of parts of the Code.

#### **Sec. ~~1-1.~~ 1-100. Designation and citation of the Code.**

The ~~laws~~ ordinances contained in the following ~~titles,~~ chapters, ~~Articles~~ and sections shall constitute and be designated as the “~~The~~ City of Takoma Park Code, 1972.” ~~and may be so cited.~~ The Code may also be cited as the “Takoma Park Code” or as “City Code” or in the provisions which follow, as “this Code.”

#### **Sec. ~~1-2~~ 1-101. Rules of ~~interpretation.~~ construction and definitions.**

~~—(a)~~ ~~The following rules of interpretation apply to~~ In the construction of this Code and of all ordinances, ~~and resolutions, and regulations~~ of the City ; the following rules shall be observed;

unless such construction would be inconsistent with the manifest intent of the Council or unless the context clearly requires otherwise.

~~————— (1) — *Building* shall mean any structure or part thereof, having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or chattels. When any portion is completely separated from all other portions by a division wall from the ground up to the roof and without any door or other opening, such portion shall be deemed a separate building.~~

~~————— (2) — *Business* shall include businesses, professions, trades, occupations and callings, or operation of private institutions of all and every kind, whether carried on for profit or not.~~

~~————— (3) — *City* shall mean the City of Takoma Park, Maryland, or the area within the territorial City limits of this City and territory outside of this City over which the City has jurisdiction or control.~~

~~————— (4) — *Clerk* shall mean the City Clerk of Takoma Park, Maryland.~~

~~————— (5) — *Council* shall mean the City Council of Takoma Park, Maryland.~~

~~————— (6) — *Gender*: A word importing the masculine gender only, shall extend and be applied to females as well as to any other persons defined in this Code.~~

~~————— (7) — *May* is permissive.~~

~~————— (8) — *Non-technical and technical words and phrases*: Words and phrases used in this Code and not specifically defined shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to that particular meaning.~~

~~————— (9) — *Oath* includes an affirmation or declaration if made by a person conscientiously scrupulous of taking an oath.~~

~~————— (10) — *Office* shall mean the use of the title of any officer, employee or office of the City of Takoma Park unless otherwise specifically designated.~~

~~————— (11) — *Operate* includes carry on, keep, conduct, maintain or manage.~~

~~————— (12) — *Or* may be read as "and" if the sense requires it.~~

~~————— (13) — *Owner*, as applied to a building or land, shall include any person who is part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, joint tenant or tenant by the entirety having legal title of the whole or a part of the building or land. The word "owner" shall also include any person having charge, care or control of any building or~~

land as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

~~————— (14) *Person* shall mean a natural person, joint venture partnership, association, club, company, joint stock association, corporation or other organization acting as a group or unit as well as an individual. The word "person" shall also include any manager, trustee, lessee, agent, servant, officer, employee or similar representative thereof of any of them and all political subdivisions and agencies except of the United States of America and the State of Maryland, and every department of these political subdivisions together with every officer and employee thereof while working in the course of his employment.~~

~~————— (15) *Property* shall include both real and personal property.~~

~~————— (16) *Sale* includes any sale, exchange, barter, advertisement or offer for sale.~~

~~————— (17) *Shall or Must* are mandatory.~~

~~————— (18) *Sidewalk* shall mean that portion of a street between the curb line, and the building line of the adjacent property, intended and designed for the use of pedestrians.~~

~~————— (19) *Singular*: A word importing the singular number shall include the plural and the plural, the singular.~~

~~————— (20) *State* shall mean the State of Maryland.~~

~~————— (21) *Street* shall include all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks or any other public ways in this city and its parklands used for vehicular traffic. The word "street" shall also include any public ways which have been or may hereafter be dedicated and opened to public use, or other public property so designated in any law of this state.~~

~~————— (22) *Tenant or Occupant*, as applied to a building or land, shall include any person living, sleeping, cooking, eating in or having actual possession of the whole or part of the building or land, whether alone or with others.~~

~~————— (23) *Tenses*: Words used in the present tense shall include the past and future tenses and vice versa.~~

~~————— (24) *Time Computation*: Unless otherwise specifically provided, the time within which an act is to be done as provided in any section or order issued pursuant to any section of this Code, shall be computed by excluding the first day and including the last, unless it is a Saturday, Sunday or a legal holiday for the city, in which event the period will run until the end of the next day which is neither a Saturday, Sunday or holiday.~~

~~————— (25) *Vehicles* shall include any conveyance or appliance moved over a highway.~~

~~(26) *Week* shall include any conveyance or appliance moved over a highway.~~

~~(27) *Year* shall mean a calendar year.~~

(a) *Interpretation of language.* All words and phrases used in this Code and not specifically defined shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.

(b) *Grammatical interpretation.* The following grammatical rules shall apply to this Code unless it is apparent from the context that a different construction is intended:

(1) *Gender.* Each gender includes the masculine, feminine, and neutral genders.

(2) *Singular and plural.* The singular includes the plural and the plural includes the singular.

(3) *Tense.* Words used in the present tense includes the past and the future tense and vice versa.

(c) *Computation of Time.*

(1) Except when otherwise provided, the time within which an act is required to be done is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or legal holiday or if the office where the person must file a paper or perform an act is not open during the regular hour of that office, in which case it also is excluded.

(2) If this Code requires or allows a person to act by a specific date, but the specific date is a Saturday, Sunday, legal holiday, or day on which the office where the person must file a paper or perform an act is not open during the regular hours of that office, the person may perform the act on the next day that is not a Saturday, Sunday, legal holiday, or day on which the office is not open during regular business hours.

## **Sec. 1-102. Definitions.**

(a) The following words and phrases, whenever used in this Code, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(1) *Charter or City Charter* means the municipal charter of the City of Takoma Park, Maryland.

(2) *City* means the City of Takoma Park, Maryland, and includes not only the area within the corporate boundaries of the City, but also property outside of this City over which

the City has jurisdiction or control.

(3) *City Manager* means the City Manager of the City of Takoma Park. References to “City Administrator” in this Code mean the City Manager.

(4) *Clerk or City Clerk* means the City Clerk of the City of Takoma Park, Maryland.

(5) *Council or City Council* means the Council of the City of Takoma Park. The Council, which consists of six Councilmembers elected by wards and one Mayor elected at-large, is the governing body of the City.

(6) *County* means Montgomery County, Maryland.

(7) *Designee*, following the use of a title of an official of the City, means the authorized agent, employee, or representative of such official.

(8) *May* is permissive.

(9) *Month* means a calendar month.

(10) *Must and shall* are each mandatory.

(11) *Oath* includes an affirmation or declaration in all cases which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

(12) *Owner*, as applied to any property, means and includes any part owner, joint owner, owner of a partnership interest, life tenant, tenant in common, joint tenant, tenant by the entirety, or entity having legal title of the whole or a part of such property. The word "owner" shall also include any person having charge, care or control of any property as agent of the owner, or as personal representative, executor, administrator, trustee or guardian of the estate of the owner.

(13) *Person* means and includes associations, businesses, clubs, companies, corporations, firms, joint ventures, limited liability companies, organizations, partnerships, trusts, and bodies politic and corporate as well as natural persons.

(14) *Personal property* means and includes all tangible and intangible property other than real property.

(15) *Preceding and following* mean next before and next after, respectively.

(16) *Property* means and includes real and personal property.

(17) *Real property* means and includes lands, tenements, and hereditments.

(18) *Reasonable time or reasonable notice*, in any ordinance or Code provision that requires any act to be done in a reasonable time or reasonable notice to be given, means such time as may be necessary for the prompt performance of such duty, or compliance with such notice.

(19) *Sidewalk* means that portion of a street between the curb line, or the lateral lines of a street where there is no curb, and the adjacent property line, intended for the use of pedestrians.

(20) *State* means the State of Maryland.

(21) *Street* means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or any other public ways in the City which have been or may hereafter be dedicated and open to public use.

(22) *Week* means seven (7) calendar days; but publication in a newspaper or other publication of any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

(23) *Written or in writing* means and includes any representation of words, letters or figures, whether by printing or otherwise, reproduced in a permanent visible form.

(24) *Year* means a calendar year, unless otherwise stated.

**Sec. 1-3: 1-103. Reference to *titles*, chapters, articles, or sections; *title of sections*; conflicting provisions Sections.**

~~(a) In addition to the rules of construction specified in Section 1-2 of this chapter, the following rules shall be observed in the construction of this Code.~~

(a) ~~(1)~~ All references to *titles*, chapters, articles, or sections are to the *titles*, chapters, articles, and sections of this Code, unless otherwise specified.

(b) *Titles and captions are not part of this Code. Titles and captions only advise the reader of the content of each section.*

(c) ~~(2)~~ If the provisions of different chapters ~~or Articles~~ of this Code conflict with or contravene each other, the provisions of each chapter ~~or Article~~ shall prevail as to all matters and questions growing out of the subject matter of that chapter ~~or Article~~.

(d) ~~(3)~~ If different sections of the same chapter are clearly in conflict, the provisions of the section which is last in numerical order shall prevail unless the construction is inconsistent with the meaning of that chapter.

**~~Sec. 1-4. Headings and catchlines not to affect the meaning of any provision.~~**

~~———— All designations and headings of chapters, Articles or divisions and all catchlines of sections or subsections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such chapters, Articles, divisions, sections or subsections. They shall not be deemed or taken to be any part of or title of such chapters, Articles, divisions, sections or subsections; nor, unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be construed to alter the otherwise intended meaning of any provision of this Code.~~

**~~Sec. 1-5. Code provisions as continuations of existing ordinances.~~**

~~———— The provisions appearing in this Code, so far as they are the same as the provisions of the ordinances on which they are founded and ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.~~

**~~Sec. 1-6.~~ 1-104. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

**~~Sec. 1-7. Interpretation of Section numbers.~~**

~~———— In reading a Section number from left to right, the digit or digits to the left of the dash refer to the Chapter number of this Code. The digits to the right of the dash refer to the particular Section within the Chapter. Figures to the right of a decimal point shall indicate new Sections or Chapters inserted between existing Sections or Chapters, as the case may be. The decimal system shall be used in maintaining the numerical order of such Sections and Chapters.~~

**~~Sec. 1-8.~~ 1-105. Effect on past acts and obligations.**

~~Neither the adoption of this Code or the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances which violations were committed prior to the effective date hereof. It shall not be construed as a waiver of any license or penalty at the effective date due and unpaid under such ordinance, or be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof. It shall not affect the validity of any bond or cash~~



~~deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect.~~

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Code, except as otherwise provided.

**~~Sec. 1-9. Same offense punishable by different Sections of Code.~~**

~~—In cases where the same offense is made punishable or is created by different clauses or Sections of this Code, the Corporation Counsel may elect under which to proceed, but not more than one (1) recovery shall be had against the same person for the same offense.~~

**~~Sec. 1-10:~~ 1-106. Prohibited acts include causing and permitting. ; causing, abiding or concealing.**

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

**~~Sec. 1-11:~~ 1-107. References includes amendments.**

Any reference in this Code to any federal, state, or County law or to a City ordinance or provision of this Code shall mean any such law, ordinance or provision as now existing or hereafter amended.

**~~Sec. 1-12:~~ 1-108. Acts by agents or designees. deputy.**

Whenever a power is granted to or a duty is imposed upon a City public officer or employee, the power may be exercised or the duty may be performed by an authorized agent or designee, a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance, unless this Code expressly provides otherwise.

**~~Sec. 1-13. Territorial applicability.~~**

~~—This Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by~~

~~virtue of any Constitutional or Charter provisions, or any law.~~

**Sec. 1-14. ~~Notices, reports, statements, applications and records to be written in English.~~**

~~———— All notices, reports, statements, applications and records required or authorized by this Code shall be made in writing in the English language, unless specifically provided otherwise.~~

**Sec. 1-15. ~~Service of notice; proof of service.~~**

~~———— (a) ——— Unless otherwise specifically indicated, whenever a notice is required to be given pursuant to any Section of this Code, that notice shall be given either by personal delivery to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last known residence or business address, or by any other method of delivery approved by law.~~

~~———— (b) ——— Proof of giving notice shall be made either by affidavit of the person over 18 years of age or over who actually accomplished personal service or by a return receipt signed by the recipient notified by United States Mail, or by any other method of proof approved by law.~~

**Sec. 1-17: 1-109. Prosecuting Violations of the Charter, Code and regulations.**

The City may prosecute any violation of the Charter or Code or any ordinance or regulation of the City as a municipal infraction. Alternatively, the City may provide that violations of any provision of the Charter or Code or any ordinance or regulation shall be punishable as a misdemeanor. Alternatively, the city may prosecute the person for committing a misdemeanor if the Charter, Code or regulations state that a violation of that provision is a misdemeanor. Each day that a violation continues is a separate offense.

**Sec. 1-18: 1-110. Warning notices.**

(a) ~~When a warning notices required.~~ Unless the Charter, Code or regulations require the cit to issue a warning notice before issuing a citation, the city is not required to issue a warning notice. A warning notice is not required prior to the issuance of a citation for a municipal infraction unless the Charter, Code or regulation expressly requires a warning notice prior to issuing a citation for a specific offense. The City may, at the discretion of the City Manager, issue a warning notice before issuing a citation.

(b) ~~Delivery and contents of a warning notice.~~ Unless the Charter, Code or regulations are inconsistent with this subsection, when a warning notice is required:

~~———— (1) ——— The City must issue the notice 48 hours before the citation is issued.~~

- ~~\_\_\_\_\_ (2) The notice must describe what:~~
- ~~\_\_\_\_\_ (A) The violation is:~~
- ~~\_\_\_\_\_ (B) The person can do to correct the violation.~~
- ~~\_\_\_\_\_ (C) The penalty is for the violation.~~
- ~~\_\_\_\_\_ (3) The City must give the person charged with the violation a copy of the citation in person or by mail at the last known address of the person.~~

**Sec. ~~1-19~~ 1-111. Municipal infractions.**

(a) *Issuing citations.* The City ~~Administrator~~ **Manager** shall designate enforcement officers who shall have primary responsibility for issuing municipal infraction citations. An enforcement officer may issue a citation for a municipal infraction if the officer:

- (1) Observes a violation of the ~~City~~ **Takoma Park** Code; or
- (2) Receives an affidavit citing the facts of the alleged infraction.

(b) *Contents of citations.* The citation must contain:

(1) A certification by the enforcement officer that the information in the citation is true or that the citation is based on an affidavit.

- (2) The name and address of the person charged.
- (3) A description of the nature of the infraction.
- (4) The location and time ~~of that~~ the infraction **occurred**.
- (5) The amount of ~~fine~~ **the infraction fine assessed**.
- (6) The manner, location and time in which the fine may be paid **to the City**.
- (7) ~~An explanation of the~~ **Notice of the** person's right to elect to stand trial **for the infraction**.
- (8) ~~An explanation of the consequences~~ **Notice of the effect** of failing to pay the **assessed** fine or demand a trial ~~on time~~ within the prescribed time.

(c) *Serving citations.* ~~The enforcement officer who issues a citation must deliver the citation to the person charged by personal delivery or by certified mail. For real property related~~

violations, if proof is made by affidavit that good faith efforts to serve the citation on the person charged have not succeeded, then the citation may be served by:

- ~~\_\_\_\_\_ (1) Regular mail to the last known address of the person charged; and~~
- ~~\_\_\_\_\_ (2) Posting of the citation at the property where the infraction occurred or is occurring, and, if located in the city, at the residence or place of business of the person charged.~~

The citation shall be served on the person charged by:

- (1) Personal delivery;
- (2) Certified mail addressed to the last known address of the person to be served if the return receipt is returned indicating that the certified mail was received by the recipient;
- (3) Leaving the citation at the person's residence with a person of suitable age and discretion if the person to be served is an individual; or
- (4) For real property-related violations, sent by regular first-class mail to the last known address of the person to be served and posted in a conspicuous location on the real property where the infraction occurred or is occurring and, if located in the City, posted at or delivered to the residence or place of business of the person to be notified.

(d) *Methods of service not exclusive.* The methods of service provided in (c) above are in addition to and not exclusive of any other means of service that may be provided by state law or court rules for obtaining jurisdiction over a defendant.

(e) ~~(d)~~ *Paying a fine.* Within 20 days of service of the citation, a person charged in a citation may pay the fine to the City **Finance Office** ~~Treasurer~~.

(f) *Election to stand trial.* ~~(e) Demanding a trial.~~ Instead of electing to paying the fine, a person charged in a citation may notify the City in writing within 15 days after service of the citation of the person's intent to stand trial for the infraction. **The written notice of election to stand trial must be given within 15 days after service of the citation.**

(g) ~~(f)~~ *Effect of failing to pay the fine or demand a trial.* If a person charged in a citation fails to pay the fine within 20 days of service of the citation and fails to deliver to the City a written notice of the intent to stand trial within 15 days of service of the citation, the person is liable for the assessed fine. The City may double the fine to an amount not to exceed \$1,000 **the maximum fine allowable by State law** and request adjudication of the infraction through the District Court. The procedures for the trial of municipal infractions **citations** shall be as set forth in Article 23A, § 3, of the Annotated Code of Maryland, as amended from time to time.

(h) ~~(g)~~ *Amount of fine.*

(1) The **maximum** amount of the fine for a municipal infraction is the amount shown in this subsection.

Class of Offense	Fine for Initial Offense	Fine for Repeat Offenses
AA	\$1,000	\$1,000
A	500	1,000
B	400	800
C	200	400
D	<del>75</del> 100	<del>150</del> 200
<del>M</del> E	<del>100</del> 75	<del>200</del> 150
<del>N</del> F	<del>25</del> 50	<del>50</del> 100
<del>θ</del> G	<del>10</del> 25	<del>20</del> 50

(2) If the Code does not specify the class of the offense, it is a Class A offense.

(3) Unless provided otherwise, to be a repeat offense, an offense must be committed within one year after an initial offense. The payment of the fine for a municipal infraction is not an admission of guilt in any City licensing or administrative proceeding, but does establish the “initial offense” charged in the citation for the purpose of calculating the fine for a repeat offense under subsection (h)(1) above.

(4) Each day that a violation continues is a separate offense for which a citation may be issued.

## Sec. ~~1-20~~ 1-112. Misdemeanors.

(a) *Responsibility for enforcement.* The Police Department is responsible for issuing **criminal** citations or making arrests for violations **of the Takoma Park Code that are designated as** ~~that the city prosecutes as~~ misdemeanors. A police officer has the discretion to issue a citation or **make an** arrest. ~~Code enforcement officers will assist the Police Department as directed by the City Administrator.~~

(b) *Amount of penalty.*

(1) The **maximum penalty is as** ~~amount of the penalty is the amount~~ shown in this subsection.

Class of Offense	Fine	Jail Term (days) <u>Imprisonment</u>
A	\$1,000	<del>180</del> 6 months
B	500	<del>90</del> 3 months

C	200	30	1 month
D	100	5	1 week

(2) If the Charter, Code or regulations do not specify the class of the misdemeanor offense, it is a Class A misdemeanor offense.

(3) The City may prosecute a misdemeanor offense as a civil offense, Class A. In exercising its discretion on this matter, the City must consider the severity of the particular offense.

(c) ~~*Serving citations.* A police officer may deliver a citation in person or by certified mail.~~ The service and trial of misdemeanor criminal citations is governed by State law and rule of court.

### **Sec. 1-113. Other remedies.**

(a) In addition to or instead of any other remedy allowed by law, the City may enforce any City law, or seek to correct any violation of City law, by seeking appropriate injunctive, declaratory, or other relief from any court with jurisdiction.

(b) Any court with jurisdiction may temporarily or permanently enjoin any violation of City law, order any person to correct any violation of City law, or order any other appropriate remedy.

### **Sec. ~~1-16~~. 1-114. Severability of parts of the Code.**

~~It is the intention of the Mayor and the Council that, if any section, paragraph, sentence, clause or word of this Code shall be declared unconstitutional or invalid for any reason by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the Council without the incorporation in this Code of any unconstitutional or invalid work, clause, sentence, paragraph or section.~~

(a) *Severable provisions.* Except as provided under subsection (b), it is the intent of the Council that the provisions of this Code, and of all City ordinances, resolutions, and regulations, are severable. If any provision is declared unconstitutional or otherwise invalid or inapplicable by a court of competent jurisdiction, the remainder of the Code, ordinance, resolution or regulation remains in effect.

(b) *Nonseverable provisions.* The Council may expressly provide in this Code or by ordinance, resolution or regulation that certain provisions are not severable.

**TAKOMA PARK CODE**  
**CHAPTER 2. ADMINISTRATION.**

**ARTICLE 1. MEETINGS AND PROCEDURES OF THE COUNCIL.**

§ <del>2-1.</del> <u>-2-100.</u>	Council meetings and work sessions.
§ <del>2-2.</del> <u>2-101.</u>	Agenda and order of business.
§ <del>2-3.</del> <u>-2-102.</u>	Procedure for handling citizen requests for placing items on Council agenda.
§ <del>2-4.</del> <u>-2-103.</u>	Ordinances and resolutions defined.
§ <del>2-5.</del> <u>-2-104.</u>	Procedure for adoption of ordinances and resolutions.
§ <del>2-6.</del> <u>-2-105.</u>	Fiscal notes.
§ <del>2-7.</del> <u>-2-106.</u>	Changes in rules.
§ <del>2-8.</del> <u>-2-107.</u>	Parliamentary authority.
§ 2-108	Proclamations.
§ 2-109	Salary of Mayor and Councilmembers.
§ 2-110	Periodic review of Council compensation.

**~~ARTICLE 2. RESERVED.~~**

**~~ARTICLE 2A. ETHICS.~~**

- § ~~2-11.~~ Title.
- § ~~2-12.~~ Purpose and policy.
- § ~~2-13.~~ Scope.
- § ~~2-14.~~ Definitions.
- § ~~2-15.~~ Ethics Commission.
- § ~~2-16.~~ Inquiries and complaints.
- § ~~2-17.~~ Prohibited conduct and interests.
- § ~~2-18.~~ Financial disclosure.
- § ~~2-19.~~ Lobbying disclosure.
- § ~~2-19.1.~~ Enforcement, violations and penalties

**ARTICLE ~~3~~ 2. CITY MANAGEMENT.**

**Division 1. City ~~Administrator~~ Manager.**

- § ~~2-20.~~ 2-210 Appointment and duties of City ~~Administrator~~ Manager.

**Division 2. Department Heads and Team Leaders.**

~~§ 2-21. 2-220.~~ Power of appointment.  
~~§ 2-22. 2-221.~~ Designation of department heads.  
~~§§ 2-23 through 2-39.~~ Reserved.

#### ~~ARTICLE 4. RESERVED.~~

~~§§ 2-40 through 2-49.~~ Reserved.

#### **ARTICLE 5 3. ADMINISTRATIVE REGULATIONS.**

<del>§ 2-50. 2-300.</del>	Scope.
<del>§ 2-51. 2-301.</del>	Definitions.
<del>§ 2-52. 2-302.</del>	Authority.
<del>§ 2-53. 2-303.</del>	<del>Subject matter and readability</del> <u>Single subject and readability requirements.</u>
<del>§ 2-54. 2-304.</del>	Notice of proposed regulation.
<del>§ 2-55. 2-305.</del>	Consideration by agency.
<del>§ 2-56. 2-306.</del>	Final action.
<del>§ 2-57. 2-307.</del>	Publication of notice of final action.
<del>§ 2-58. 2-308.</del>	Internal regulations.
<del>§ 2-59. 2-309.</del>	Emergency regulations.
<del>§ 2-60. 2-310.</del>	Repeal and modification of regulations by <del>Mayor and Council</del> <u>the Council.</u>
<del>§ 2-61. 2-311.</del>	Delegation of regulation authority.
<del>§ 2-62. 2-312.</del>	Compilation of regulations.
<del>§ 2-63. 2-313.</del>	Review of regulations.
<del>§ 2-64.</del>	<del>Severability.</del>
<del>§ 2-65.</del>	<del>Effective date.</del>
<del>§§ 2-66 through 2-124.</del> Reserved.	

#### **ARTICLE 6 4. BOARDS AND COMMISSIONS.**

##### **Division 1. General Provisions.**

~~§ 2-125. 2-410.~~ Membership of statutory Council-appointed committees.  
~~§§ 2-126 through 2-140.~~ Reserved.

##### **Division 2. Tree Commission.**

<del>§ 2-141. 2-420.</del>	Establishment.
<del>§ 2-142. 2-421.</del>	Composition.
<del>§ 2-143. 2-422.</del>	Function.
<del>§ 2-144.</del>	<del>Duties.</del> <u>Moved to Chapter 12, Trees and vegetation.</u>



### **~~Division 3. Cable Television Board.~~**

- ~~§ 2-145. Establishment.~~
- ~~§ 2-146. Objectives.~~
- ~~§ 2-147. Authority and responsibility.~~
- ~~§ 2-148. Organization.~~
- ~~§ 2-149. Committees.~~
- ~~§ 2-150. Use of municipal channel resources.~~
- ~~§ 2-151. Funding.~~

### **Division 4 3. ~~Water and Sewer~~ Stormwater Board.**

- ~~§ 2-152.~~ 2-430. Designation; presiding officer.
- ~~§ 2-153.~~ 2-431. Membership; conduct of business.

### **Division 5 4. Public Safety Citizens Advisory Committee.**

- ~~§ 2-154.~~ 2-440. Establishment.
- ~~§ 2-155.~~ 2-441. Composition.
- ~~§ 2-156.~~ 2-442. Objectives.

## **ARTICLE 1. MEETINGS AND PROCEDURES OF THE COUNCIL.**

### **Sec. ~~2-1~~ 2-100. Council meetings and work sessions.**

(a) Council meetings. The Council generally shall hold meetings in the Takoma Park Municipal Building and Sam Abbott Citizens' Center ~~twice each month~~, unless the Council shall for any meeting prescribe a different place. Except during periods of recess, the Council shall generally meet twice each month.

(b) Special sessions and public hearings. In addition to the ~~regular bimonthly~~ Council meetings specified in Subsection (a), the Council may at any time hold special sessions or public hearings. Unless otherwise determined by the Council, these meetings shall be held in the Takoma Park Municipal Building and Sam Abbott Citizens' Center.

(c) Worksessions. In addition to the meetings specified in Subsections (a) and (b) above, the Council shall hold work sessions at which ~~Council members~~ Councilmembers shall discuss ~~City~~ business but may not adopt ordinances or resolutions. Unless otherwise determined by the Council, work sessions shall be held twice each month in the Takoma Park Municipal Building and Sam Abbott Citizens' Center. At its discretion, the Council may hold additional Work sessions in any month. Worksessions shall be open to the public, except when ~~for executive closed in accordance with sessions on matters defined by~~ state law. ~~Worksessions are not considered Council meetings as defined in this Article or in Section 304 of the Charter.~~

(d) Written minutes of all Council meetings and work sessions shall be prepared in accordance with the Maryland Open Meetings Act.

**Sec. ~~2-2~~. 2-101. Agenda and order of business.**

(a) A written agenda for each Council meeting and work session shall generally be made available to the public no later than noon on the day of the meeting, unless the meeting is a special session called on an emergency basis. In that case, an agenda shall be available to the public as soon as possible. The agenda shall list the items to be considered at that meeting, briefly describe each item and, for Council meetings, state what action, if any, the Council plans to take on that agenda item.

(b) Items not on the written agenda of a Council meeting or work session shall be considered when a majority of the Councilmembers present determine that circumstances require timely consideration of that item. In such cases, the Mayor shall announce the additional item at the beginning of the meeting or work session.

(c) ~~Regular bimonthly Council meetings of the Council~~ shall include a citizens' public comment period, during which citizens may address the Council concerning issues not on the agenda for that meeting.

(d) At each Council meeting, citizens also shall be given an opportunity to address the Council concerning items on the agenda.

(e) The Council may adopt rules of procedure governing the conduct of ~~Council members~~ Councilmembers and citizens at Council meetings and work sessions.

**Sec. ~~2-3~~. 2-102. Procedure for handling citizen requests for placing items on Council agenda.**

(a) The following procedure shall be followed:

(1) A citizen's request to place an item on the agenda shall be in writing and shall ~~, in such manner as to~~ clearly state the issue.

(2) Upon receipt of the citizen's written request, the Mayor shall determine whether the item is one for further Council consideration or a matter which can be responded to in a follow-up letter, by a directive for action to staff or by an administrative report at a future Council meeting.

~~(3)~~(b) If the matter does not lend itself to a clear resolution via the procedures delineated in Subsection (a)(2) above, the Council, at its next work session, shall determine whether or not the matter should be placed on the Council agenda. The decision of the Council shall be communicated ~~in writing~~ to the citizen making the request.

**Sec. 2-4. ~~2-103.~~ Ordinances and resolutions defined.**

(a) Ordinances generally amend, affect or repeal ~~c~~City law, whether an ordinance is codified or not.

(b) ~~Resolutions are generally not law, but are merely requests or expressions of the opinion of the Council. Resolutions.~~ There are two (2) ~~basic~~ types of resolutions: simple resolutions and substantive resolutions.

(1) Simple resolutions are ~~generally~~ not law, but are merely expressions of the opinion of the Council. Simple resolutions are used, for example, to establish or make appointments to various ~~c~~City commissions and task forces, to set forth positions of support or opposition of the ~~c~~City government on a particular subject, to accept reports of various committees, to express congratulations or condolences or other matters of a nonsubstantive or personal import.

(2) Substantive resolutions have the force and effect of law. Substantive resolutions are used, for example, to amend the Charter.

**Sec. 2-5. ~~2-104.~~ Procedure for adoption of ordinances and resolutions.**

(a) Except as otherwise provided in this section, ordinances shall be read at two (2) meetings of the Council prior to adoption.

(1) The first reading of an ordinance shall ~~be to~~ introduce the ordinance to Councilmembers for study and consideration and ~~to~~ provide an opportunity for citizen input.

(2) At the second reading, the Council may adopt an ordinance with or without amendment.

(b) The following classes of ordinances may be adopted after one (1) reading at a meeting of the Council:

(1) Ordinances dealing with appropriations of funds from ~~a previously the~~ adopted fiscal year budget, ~~previously approved federal revenue-sharing fund planned use report~~ or approved community development block grant program.

(2) Ordinances that ~~which~~ are necessary to meet a public emergency affecting the public health, safety and welfare.

(A) Emergency ordinances must include a section of legislative findings describing the claimed emergency in clear and specific terms and declaring that the ordinance is necessary for the immediate protection of public health, safety or welfare.

(B) Emergency ordinances shall be effective immediately after adoption.

(c) Resolutions require one (1) reading at a meeting of the Council prior to adoption.

(d) The affirmative vote of a majority of ~~Council members~~ Councilmembers present at a meeting shall be required for adoption of an ordinance or resolution.

**Sec. ~~2-6.~~ 2-105. Fiscal notes.**

~~(a) Except as otherwise provided in this section, the Council may not vote on an ordinance which has a significant budgetary effect unless a fiscal note accompanies the ordinance.~~

~~————(b)~~ (a) *Preparation of fiscal notes.*

(1) ~~Except as provided in Subsections 4 and 5, the City Administrator or the City Administrator's designee~~ City Manager or his/her designee, with the assistance of appropriate department heads ~~directors~~, shall prepare or cause to be prepared a fiscal note for each ordinance ~~which has a significant budgetary effect.~~

(2) ~~The City Administrator or the City Administrator's designee~~ City Manager or his/her designee shall submit a fiscal note for an ordinance to the Council prior to the first reading of ~~an~~ the ordinance.

(3) Notwithstanding the foregoing, a fiscal note may be prepared and submitted to the Council prior to the second reading of an ordinance if the Mayor certifies that prompt Council action on an ordinance is necessary.

(4) Unless an ordinance provides for expenditures in excess of the budgeted amount, a fiscal note is not necessary for an ordinance providing for expenditures specifically authorized in the current fiscal year budget ordinance or resolution or in an ordinance or resolution revising that budget.

(5) A fiscal note is not necessary for emergency ordinances as defined in Section ~~2-52-104~~(b)(2).

~~(c)~~ (b) *Contents of fiscal notes.*

(1) A fiscal note for an ordinance shall contain an estimate of the fiscal impact of the ordinance on the revenues and expenditures of the ~~c~~City government:

(A) During the year in which the ordinance is to become effective and the next year after, as applicable; or

(B) If the full fiscal impact of an ordinance is not expected to occur during those years, the first year during which that impact is expected to occur.

(2) A fiscal note shall identify the sources of information ~~that the City Administrator or the City Administrator's designee~~ used in preparing the estimate of fiscal impact.

(~~dc~~) *Copies.*

(1) The ~~City Administrator or the City Administrator's designee~~ City Manager or his/her designee shall keep a copy of each fiscal note for three (3) years after preparation of the note.

(2) Copies of fiscal notes shall be available for public inspection.

(~~ed~~) The validity of an ordinance is not affected by the presence, absence or content of a fiscal note.

**Sec. ~~2-7.~~ 2-106. Changes in rules.**

Any rule of procedure may be temporarily waived by a majority vote of the ~~Council members~~ Councilmembers present, but any permanent amendment to a rule must be by ordinance or resolution, as appropriate.

**Sec. ~~2-8.~~ 2-107. Parliamentary authority.**

Robert's Rules of Order shall be the recognized authority as to any matter of procedure not covered by this Article or by rules adopted by the Council pursuant to Section ~~2-2-2-~~ 101(e).

**Sec. 2-108. Proclamations.**

The Mayor, at his/her sole discretion, may make ceremonial proclamations that shall be read into the record during Council meetings. Proclamations shall not have any substantive effect or fiscal impact.

**Sec. ~~2-9.~~ 2-109      Salary of Mayor and Councilmembers.**

(a) The Mayor shall receive an annual salary of Eight Thousand Dollars, payable bi-weekly.

(b) Each Councilmember shall receive an annual salary of Six Thousand Dollars, payable bi-weekly.

(c) The salaries of the Mayor and Councilmembers, as set forth in this section, shall become effective for the members of the Council who take office following the November 2003 City election.

**Sec. 2-10. 2-110      Periodic Review of Council Compensation.**

(a) *Council Compensation Committee.* The Council shall appoint a committee of City residents, every four years beginning with calendar year 2007, to serve as the Council Compensation Committee. The Committee shall review the salaries of the Mayor and Councilmembers and make recommendations to the Council whether or not such salaries should be changed.

(b) *Principles of Compensation.* The Council Compensation Committee shall apply the following principles to guide its recommendations:

- i. The positions of Mayor and Councilmember are part-time and should be treated that way;
- ii. Full monetary compensation for the Mayor and Councilmembers is not appropriate;
- iii. It is appropriate to monetarily compensate the Mayor and Councilmembers to some extent for their work;
- iv. Monetary compensation creates an obligation for the Mayor and Councilmembers to perform their jobs;
- v. Monetary compensation provides status to the Mayor and Councilmembers;
- vi. The Mayor's salary should be greater than that of Councilmembers; and
- vii. Compensation for the Mayor and Councilmembers should be comparable to Maryland municipalities of similar size and complexity.

(c) *Effective Date of Council Salary Adjustment.* Any change in the salary paid to the Mayor and Councilmembers shall be adopted prior to the next municipal election and shall take effect only as to the next succeeding Mayor and Councilmembers as prescribed in Sections 302(c) and 304(c) of the Municipal Charter.

**~~ARTICLE 2. RESERVED.~~**

**~~ARTICLE 2A. ETHICS.~~**

**ARTICLE 3 2. CITY MANAGEMENT.**

**Division 1. City ~~Administrator~~ Manager.**

**Sec. ~~2-20.~~ 2-210 Appointment and duties of City ~~Administrator~~ Manager.**

The Council shall appoint a ~~City Administrator~~ City Manager, who shall be responsible for the proper administration of all day-to-day affairs of the ~~eCity~~. The ~~City Administrator~~ City Manager shall be vested with the powers and authority necessary to perform such duties, except where they may be inconsistent with other provisions of the Charter or this Code. The ~~City Administrator~~ City Manager shall ~~have general administrative supervision of the several~~ manage ~~the~~ departments of the ~~eCity~~, through the department heads, to enforce the laws of the City. ~~direct the proper execution of the Charter, this Code and such ordinances, resolutions, regulations and policies as the Council shall adopt.~~ In addition, the ~~City Administrator~~ City Manager shall perform such other duties as the Council may lawfully require.

**Division 2. Department Heads and Team Leaders.**

**Sec. ~~2-21.~~ 2-220. Power of appointment.**

~~The City Administrator shall have general administrative supervision of the departments of the eCity through the department heads and team leaders, who shall serve at the sole and absolute pleasure of the City Administrator.~~ The ~~City Administrator~~ City Manager shall have the power to appoint, suspend and remove all department heads ~~and team leaders~~ at his or her sole discretion. The City Manager is authorized to negotiate and finalize all terms of employment with department heads and other appointed City officials.

**Sec. ~~2-221.~~ Designation of department heads and Team Leaders.**

The ~~City Administrator~~ City Manager may establish ~~appoint~~ such department heads ~~positions and team leaders~~ as the ~~City Administrator~~ City Manager deems necessary to manage the functions of the ~~eCity~~ government. The department heads ~~and team leaders~~ may include:

(a) Library Director. The Library Director shall have overall responsibility for the general operation of the library ~~and the cable television office~~. The Library Director shall plan, coordinate and direct library services for the ~~eCity~~ ~~and provide guidance to the Cable Television Coordinator~~.

(b) Public Works Director. The Public Works Director shall have general charge of all public works done in the ~~eCity~~. The Public Works Director shall plan, direct, supervise, and coordinate activities in such areas as infrastructure, building and vehicle maintenance, construction, park and street maintenance, refuse collection and disposal, recycling, trees and vegetation and stormwater management.

(c) Police Chief. The Police Chief shall arrange all activities and programs of the Police Department and shall be responsible for law enforcement in the ~~eCity~~.

(d) Director of Recreation. The Director of Recreation shall plan, promote and administer

recreation programs for the eCity.

(e) Director of ~~Housing~~ Economic and Community Development. The Director of ~~Housing~~ Economic and Community Development shall manage the City's community and economic development and housing service functions. These functions include planning, historic preservation, development, enforcement of laws relating to landlord-tenant matters, housing code enforcement, and code enforcement, generally.

**~~Secs. 2-23 through 2-39. Reserved.~~**

#### **~~ARTICLE 4. RESERVED.~~**

**~~Secs. 2-40 through 2-49. Reserved.~~**

#### **ARTICLE 5 3. ADMINISTRATIVE REGULATIONS.**

**~~Sec. 2-50.~~ 2-300. Scope.**

(a) The provisions of this Article apply to all regulations, unless otherwise provided.

(b) Regulations promulgated by the ~~Chief of Police~~ Chief, pursuant to Chapter 9 of this ~~Code~~, may be exempted from this Article at the sole discretion of the City ~~Administrator~~ Manager upon consultation with the ~~Chief of Police~~ Chief.

(c) The Council is not an agency, and actions of the Council are not subject to the requirements of this ~~act~~ Article ~~except that any rules of procedure established by the Council by resolution shall be subject to the notice provisions of this Article.~~

**~~Sec. 2-51.~~ 2-301. Definitions.**

(a) *Agency*. "Agency" means the City of Takoma Park, Maryland, or any of its subdivisions, including but not limited to any eCity board, commission, committee, officer or department, ~~when acting in accordance with or pursuant to authorization by law to make regulations.~~

~~———— (b) City Administrator *City Manager*. "City Administrator *City Manager*" means the chief executive officer of the city government.~~

~~———— (c) *Code*. "Code" means the City of Takoma Park Code, 1972, as amended.~~

~~———— (d) *Council*. "Council" means the Council of the City of Takoma Park, Maryland.~~

~~———— (e) *Mayor*. "Mayor" means the Mayor of the City of Takoma Park, Maryland, the executive officer of the Council.~~



(fb) *Regulation*. "Regulation" means any agency order, directive or statement of general or particular applicability and future effect, ~~authorized by law~~, designed to implement, or interpret law or policy, including an amendment or repeal of a prior regulation.

(gc) *Internal regulations*. "Internal regulations" mean ~~those regulations which that~~ specifically pertain to the procedures, policies or the implementation of legislation ~~which relates~~ relating to the ~~c~~City government's internal matters. Such matters include but are not limited to office procedures of the Mayor, the Council, the ~~City Administrator~~ City Manager or any City agency or subdivision thereof and to certain personnel procedures or policies.

(hd) *External regulations*. "External regulations" means ~~those regulations that which~~ pertain to the procedures and policies ~~or the implementation of legislation that which~~ directly affect ~~the general public or the citizens of the City of Takoma Park, Maryland.~~

#### **Sec. 2-52. 2-302. Authority.**

(a) *Express and implied authority*. If an agency is authorized to implement or enforce an ordinance or law, the agency may adopt regulations to implement or enforce that ordinance or law, even if the authority to adopt the regulations is not expressly stated.

(b) *Department and ~~c~~City Manager approval*. All proposed regulations and proposed final regulations shall have the signature approval of the appropriate agency official, as well as the signature approval of the ~~City Administrator~~ City Manager. For proposed regulations, such approval must be obtained prior to issuance of public notice. A regulation shall not be invalid because the City Manager or appropriate agency official has not indicated his/her approval in writing.

(c) ~~City Administrator and Council~~. ~~The City Administrator shall notify the Mayor and Council in writing before approving any proposed or final regulation.~~

#### **Sec. 2-53. 2-303. ~~Subject matter and readability~~ Single subject and readability requirements.**

~~Single subject and readability requirements~~. A regulation should pertain to only one (1) subject. A regulation should be written in plain language.

#### **Sec. 2-54. 2-304. Notice of proposed regulation.**

(a) *Publication of notice*. An agency shall publish notice in the Takoma Park Newsletter prior to the adoption, amendment or repeal of any regulation. The agency shall distribute the notice to the Council no later than one week prior to the date of publication.

(b) *Publication of additional notice*. An agency, exercising its discretion, may also publish additional notice in any neighborhood, civic, professional, trade or industrial publication

or in any newspaper of general circulation.

(c) *Comment period.* Following notice of a proposed regulation, there shall be a minimum period of twenty-one (21) days for comment on the proposed regulation. Council members may comment on any proposed regulation during the comment period provided in the public notice. At any time before the expiration of the comment period established by the notice, the Council may elect to hold a public hearing on a proposed regulation. The hearing shall be held within thirty (30) days of the end of the comment period, unless the comment period ends while the Council is in recess, in which case, the hearing shall be held within thirty (30) days of the end of the recess. If the Council schedules a public hearing, the public comment period shall be extended until the date of the public hearing. Based on information from the public hearing or other public or Council comments, the Council may direct the agency to withdraw or modify the proposed regulation.

(d) *Publication of notice, exception.* Notice does not have to be published in the Takoma Park Newsletter if all persons subject to the proposed regulation are named and either personally served or otherwise given actual notice in accordance with law. The agency shall distribute the notice to the Council no later than one week prior to the date of service of the notice on any person subject to the proposed regulation.

(e) *Content of notice.* In the ~~prior~~ original published notice, an agency shall either accurately summarize the substance of the proposed regulation and the subject and the issues involved or set forth the full text of the proposed regulation. If the proposed regulation is summarized, an agency shall state the place where the full text is available. If a hearing will be held, the place, date and time of the hearing shall be stated. The notice shall solicit public comment. The notice shall also contain the requirements or procedure for submitting any written ~~data, comments or views~~; the name, address and telephone number of a contact person who can provide further information; the deadline for receipt of comments and the name, address and telephone number of the person to whom comments may be directed; any other pertinent deadlines; ~~as well as~~ and the citation of the authority to promulgate the proposed regulation.

#### **Sec. ~~2-55.~~ 2-305. Consideration by agency.**

An agency shall consider the ~~various impacts and effects of the proposed regulation, as well as the public~~ comments submitted in response to the notice in Section ~~2-54~~ 2-304. The weight given to the various ~~comments impacts and effects~~ is within the discretion of the agency ~~and the Mayor and Council~~. The Agency will revise the proposed regulation in accordance with the Council's directions pursuant to Section 2-304(c).

#### **Sec. ~~2-56.~~ 2-306. Proposed final regulation; final action.**

(a) After ~~the comment period and~~ consideration of any comments upon a proposed regulation and compliance with the directions of the Council, an agency may adopt proposed final regulations. The agency shall issue a copy of the proposed final regulation to the City

Manager for approval. Upon approval, the City Manager shall issue the proposed final regulations to the Council.

~~(b) An agency may withdraw the proposed regulation any time before the effective date.~~

(b) The Council may modify or withdraw a proposed final regulation at the next Council meeting, work session, or special session following the issuance of the proposed final regulation. The Council's modification or withdrawal of the proposed final regulation shall be the final action on the regulation.

(c) If the Council takes no action on the proposed final regulation, the proposed final regulation shall become the final action on the regulation.

**Sec. 2-57. 2-307. Publication of notice of final action.**

(a) In the issue of the Takoma Park Newsletter that follows the final action taken on a proposed regulation, an agency shall publish notice of the final action taken on the proposed regulation. The notice of the final action taken shall be published at least ten (10) days before the effective date of the final regulation.

(b) If the proposed regulation becomes final, an agency may publish or make available a summary response to public comments received.

(c) If the proposed regulation becomes final, an agency shall:

(1) Cite the issue of the Takoma Park Newsletter that contains the notice of the proposed regulation, if there is no substantive difference between the proposed regulation and the final regulation.

(2) If the agency makes any substantive change to the proposed regulation before it is final, the agency shall publish either a summary of the changes and state the place where the full text is available, or it may set forth the full text of the final regulation with a summary of the changes.

(c) An agency may withdraw the proposed regulation any time before the regulation becomes final.

**Sec. 2-58. 2-308. Internal regulations.**

(a) The provisions of the Administrative Regulations Ordinance shall apply to all internal regulations except that:

(1) Internal regulations do not require prior notice to the public.

(2) An agency may solicit comments from the staff members who will be affected by the proposed internal regulations.

(b) There shall be a thirty (30) day waiting period from the date an internal regulation is proposed until it becomes effective.

(c) Internal regulations will be made available to all affected personnel but need not be published in Takoma Park Regulations, established by Section ~~2-62~~ 2-312 of this Article.

**Sec. ~~2-59~~ 2-309. Emergency regulations.**

(a) If the ~~City Administrator~~ City Manager determines that an emergency exists, a regulation need not meet the prior publication and consideration requirements of Sections 2-304, 2-305, and 2-307. ~~2-54, 2-55 and 2-57.~~

(b) An emergency regulation is effective immediately upon approval by the ~~City Administrator~~ City Manager and will remain in effect for a period of forty-five (45) days. The ~~City Administrator~~ City Manager shall send to the ~~Mayor and Council~~ a copy of the regulation and a statement giving the reason for the emergency regulation. The ~~City Administrator's~~ City Manager's statement shall specify the likely consequences of the emergency situation in the absence of the emergency regulation.

(c) The ~~City Administrator~~ City Manager may ~~request~~ ask the ~~Mayor and Council~~ to extend by resolution the effective period of an emergency regulation. The ~~City Administrator~~ City Manager shall provide the ~~Mayor and Council~~ with a written statement ~~information stating of the reasons for the an extension request and supporting, the need for the regulation.~~

(d) The ~~Mayor and Council~~ may repeal an emergency regulation at any time according to the provisions of Section ~~2-60~~ 2-310 of this Article.

(e) Notice of the approval of an emergency regulation, its repeal, extension or any other final action taken regarding the emergency regulation shall be given in the next Takoma Park Newsletter ~~to be published~~ and in Takoma Park Regulations, if appropriate.

(f) Emergency regulations must pertain to situations presenting a clear and present danger to the public health, safety and general welfare.

**Sec. ~~2-60~~ 2-310. Repeal and modification of regulations by ~~Mayor and City~~ the Council.**

~~(a) The Mayor and Council may comment on any proposed regulation during the comment period provided in the public notice.~~

(ab) The ~~Mayor and Council~~ may, by resolution, repeal any final or emergency regulation.

(be) The ~~Mayor and~~ Council may, by resolution, instruct the ~~City Administrator~~ City Manager to modify the final regulation as the ~~Mayor and~~ Council deems necessary.

**Sec. ~~2-61.~~ 2-311. Delegation of regulation authority.**

In lieu of enacting an ordinance, the ~~Mayor and~~ Council may delegate by resolution to ~~an appropriate city agency~~ the City Manager the function of promulgating regulations designed to implement an action authorized by an ordinance or law ~~in effect on September 30, 1989;~~ provided, however, that the ~~Mayor and~~ Council shall delegate only executive functions and shall not attempt to delegate its legislative power to an agency. Following final adoption of any regulations, the ~~Mayor and~~ Council may repeal any ordinance or Code provisions that duplicate the final regulations.

**Sec. ~~2-62.~~ 2-312. Compilation of regulations.**

(a) Takoma Park Regulations established. The Takoma Park Regulations is hereby established and shall include:

- (1) Each regulation of the ~~e~~City;
- (2) Any document that the ~~City Administrator~~ City Manager determines should be included;
- (3) Any explanatory annotation; and
- (4) An index by agency and subject matter.

(b) Duties of ~~City Administrator~~ City Manager.

(1) The ~~City Administrator~~ City Manager, with the assistance of the City Clerk, shall compile, codify, edit, index, publish and supplement the Takoma Park Regulations. The ~~City Administrator~~ City Manager may procure a contract to meet the requirements of this subsection.

(2) The ~~City Administrator~~ City Manager may remove a regulation or a part of a regulation from the Takoma Park Regulations if the regulation is declared unconstitutional or otherwise illegal by a court after final appeal or if the agency that enforced or administered the regulation ceases to exist and the functions and responsibilities of the agency are not transferred to a successor.

(3) At least once a year, each regulation adopted during the year and any document that the ~~City Administrator~~ City Manager determines should be included shall be published in a supplement to the Takoma Park Regulations.

(4) ~~City Administrator~~ City Manager shall set a reasonable price for each copy of the Takoma Park Regulations and its supplements for sale to the public.

(5) A ~~gratis~~ free copy of the Takoma Park Regulations and its supplements shall be distributed to appropriate public officials and public institutions and to any person the City Manager designates.

\_\_\_\_\_ ~~(A) The Mayor and Council;~~

\_\_\_\_\_ ~~(B) The City Administrator~~ City Manager;

\_\_\_\_\_ ~~(C) Any appropriate staff member;~~

\_\_\_\_\_ ~~(D) County Executives~~ Executive of Montgomery and Prince George's Counties County;

\_\_\_\_\_ ~~(E) The State Hall of Records;~~

\_\_\_\_\_ ~~(F) The State Law Library;~~

\_\_\_\_\_ ~~(G) The State Department of Legislative Reference;~~

\_\_\_\_\_ ~~(H) The Montgomery County and Prince George's County Public Libraries;~~

\_\_\_\_\_ ~~(I) The Takoma Park Library;~~

\_\_\_\_\_ ~~(J) Montgomery and Prince George's Circuit Court libraries, and~~

\_\_\_\_\_ ~~(K) Any person the Council designates.~~

**~~Sec. 2-63.~~**

(6) Failure to include a regulation in the Takoma Park Regulations or its supplements shall not affect the validity of the regulation.

**Sec. 2-63. 2-313. Review of regulations.**

~~The Mayor and Council shall review the Regulations from time to time as is deemed appropriate. No later than five years after a regulation's publication, a regulation shall be reviewed by the City Administrator~~ If deemed necessary, the City Manager may conduct a review of the regulations for the purpose of determining whether the ~~regulation~~ regulations should be repealed or amended.

**~~Sec. 2-64. Severability.~~**

~~— If any section, sentence, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of any court, that decision shall not affect the validity of the remaining portions of this Article.~~

**~~Sec. 2-65. Effective date.~~**

~~— This ordinance shall be effective October 1, 1989.~~

**~~Secs. 2-66 through 2-124. (Reserved)~~**

**ARTICLE 6: 4. BOARDS AND COMMISSIONS**

**Division 1. General Provisions.**

**~~Sec. 2-125:~~ 2-410. Membership of statutory Council-appointed committees.**

(a) The Council shall appoint all members of the committees identified in this section.

~~(a b)~~ Except as otherwise provided in sections specific to individual committees, all members of committees shall be residents of the City of Takoma Park and, in the event a committee member ceases to reside in the City of Takoma Park, that member is ineligible to serve on the committee as an active member.

~~(b c)~~ Several of the statutory committees are established and defined in this Chapter. Cross-references to the enabling sections of the Code for all statutory committees, including those which are established and defined in other Chapters of the City Code, are noted in the Term Expiration chart below. The length and expiration month/date of terms for each committee shall be as follows:

Committee	Term Length (years)	Expiration
<u>Arts and Humanities Commission (Ord. No. 2003-01)</u>	<u>3</u>	<u>June 30</u>
<u>Commission on Landlord-Tenant Affairs (§ <del>6-89</del> <u>§6-600</u>)</u>	3	June 30
<u>Ethics Commission (§ 5-104)</u>	2	September 30
<u>Facade Advisory Board (Ord. No. 2002-7)</u>	<u>3</u>	<u>April 30</u>
<u>Free Burma Committee (§ 3A-9)</u>	2	March 31
<u>Noise Control Board (Ord. No. 2002-35)</u>	<u>3</u>	<u>March 31</u>
<u>Nuclear-Free Committee (§ 8A-12)</u>	2	March 31
<u>Personnel Appeals Board (§ 8B-181)</u>	3	March 31
<u>Public Safety Citizens Advisory Committee (§ 2-441)</u>	<u>2</u>	<u>September 30</u>

<del>Retirement Plan Committee</del>	<del>N/A</del>	<del>N/A</del>
Tree Commission (§ 2-421)	3	September 30

(1) The initial term of a committee member who is appointed to replace a member who cannot complete his/her term shall be for the remainder of the term of the member being replaced.

(2) An initial term of a committee member that will expire in six months or less from the date of appointment shall be considered a short-term appointment.

(3) At the time a short-term appointment is made, the Council may extend the person's short-term appointment to include the next full-term for the committee, as set forth in Section 2-~~1252-410~~(b).

(4) A committee member who resigns, whose term expires or who ceases to reside in Takoma Park, at the discretion of the committee chairperson, may continue as an inactive member of the committee to complete work on matters in which he/she participated as an active member of the committee.

(5) The Council may, by resolution, remove a committee member before that person's term has expired if the Council determines that the person has become incapacitated or has failed to reasonably perform his/her duties as a committee member. A committee may recommend to the Council in writing that a committee member be removed because the member has repeatedly failed to attend meetings or hearings of the committee. Such a recommendation shall be made only upon the majority vote of the committee members present at a meeting where a quorum of the committee exists.

## **Division 2. Tree Commission.**

### **Sec. ~~2-141.~~ 2-420. Establishment.**

A Tree Commission shall be established to ~~presence~~ preserve, protect and promote the urban forest of Takoma Park.

### **Sec. ~~2-142.~~ 2-421. Composition.**

The Tree Commission shall be composed of up to five City residents appointed by the Council. ~~The five members shall serve staggered three-year terms, with initial appointments of one, two and three years.~~ The terms shall begin on October 1~~st~~ and end on September 30~~th~~. The members shall elect among themselves a Chair.

### **Sec. ~~2-143.~~ 2-422. Function.**

The Tree Commission, with the assistance of the ~~Director of Public Works~~ Arborist, shall



propose rules, regulations, procedures and actions to be taken by the City to preserve and protect the urban forest, subject to the approval of the ~~Mayor and Council~~, and perform any other related duties assigned by the Council by ordinance or resolution.

**~~Sec. 2-144. Duties:~~**

~~——— The Tree Commission shall prepare an annual report on the condition of the urban forest; prepare and update, at least annually, a Master Tree Plan consisting of an inventory of trees on public space and a multi-year planting schedule; notify the Mayor and Council of significant events related to the urban forest; recommend, as needed, changes in law or other action the Mayor and Council may wish to take to protect and promote the urban forest in Takoma Park; and perform any other related duties assigned by the Mayor and Council by ordinance or resolution.~~

**~~Division 3. Cable Television Board.~~**

**~~Sec. 2-145. Establishment:~~**

~~——— A Takoma Park Cable Television Board is established, which shall possess all powers and responsibilities as set forth in this Division.~~

**~~Sec. 2-146. Objectives:~~**

~~——— The objectives of the Takoma Park Cable Television Board are to support and promote:~~

~~——— (a) Programming on the Takoma Park municipal channel that advances greater public understanding of municipal and other public affairs and that facilitates the greater participation of city residents in the municipal decision-making processes and the life of the community.~~

~~——— (b) Programming that widens public knowledge of city and community programs and events and enhances the quality of life within the community.~~

~~——— (c) Programming that fosters a greater sense of community in the city through recognition of the broad span of nationalities, ages, races, cultures and talents that flourish throughout the city.~~

**~~Sec. 2-147. Authority and responsibility:~~**

~~——— The Board shall assist in the management of the Takoma Park municipal channel by performing responsibilities, including but not limited to the following:~~

~~——— (a) Advise the Mayor and City Council on policy relating to the production and presentation of municipal access programming appearing on the channel.~~

~~—— (b) Advise the City Administrator on the selection and hiring of staff to manage and operate the channel.~~

~~—— (c) Advise the City Administrator on policy relating to the production and presentation of public access programming appearing on the channel.~~

~~—— (d) Establish rules of procedure necessary for the conduct of its affairs.~~

~~—— (e) Coordinate and perform fundraising efforts to assist in the operations of the channel.~~

~~—— (f) Annually report to the Mayor and Council and the public on the operations of the municipal channel. The report shall include an assessment of the Board's operating structure and the suitability of a nonprofit corporation as an alternative operation structure.~~

~~—— (g) No later than December 1, 1990, forward to the Council and the City Administrator recommendations on whether municipal or community programming should continue and, if so, the best methods for operation of municipal and community programming, including the distinction between municipal and community functions, appropriate organizational structures and arrangements, appropriate methods for financing and staffing municipal and community programming and the need for and the role of an advisory body on municipal or community programming.~~

~~—— (h) No later than January 15, 1991, the City Administrator shall forward to the Council a report and recommendations on whether municipal or community programming should continue and, if so, the best methods for operation of municipal and community programming, including the distinction between municipal and community functions, appropriate organizational structures and arrangements, appropriate methods for financing and staffing municipal and community programming and the need for and the role of an advisory body on municipal or community programming.~~

~~—— (i) By March 1, 1991, the Council will consider the reports and recommendations of the Board and the City Administrator and initiate appropriate actions to address the issues covered by those reports and any other issues pertinent to municipal and community cable television organization, financing, operation and programming.~~

#### **Sec. 2-148. Organization.**

~~—— (a) The Cable Board shall be composed of eleven (H) members.~~

~~—— (b) The Mayor and Council shall appoint the initial eleven (H) members of the Board, who shall broadly represent the population of the city and include people knowledgeable about community service, fundraising and television production and management.~~

~~—— (c) All members shall be residents of Takoma Park.~~

~~\_\_\_\_\_ (d) The terms of office of eight (8) of the initial members shall run to sixty (60) days after the November 1985 city election. The terms of office of the three (3) remaining members shall be through January 1, 1986.~~

~~\_\_\_\_\_ (e) Successors to the eleven (11) initial members shall be selected in the following manner:~~

~~\_\_\_\_\_ (1) In years of city elections:~~

~~\_\_\_\_\_ (A) Four (4) members shall be elected by residents of Takoma Park at least eighteen (18) years of age who present proof of age and city residency.~~

~~\_\_\_\_\_ (B) Four (4) members shall be appointed by the newly constituted City Council within sixty (60) days of the city election.~~

~~\_\_\_\_\_ (2) In years between city elections, three (3) members shall be appointed by the members of the standing Board.~~

~~\_\_\_\_\_ (f) Except for the initially appointed members, members of the Board shall serve terms of two (2) years. No member, including those initially appointed, may serve more than three (3) consecutive terms.~~

~~\_\_\_\_\_ (g) The Board shall select a Chair and such other officers as it deems necessary to serve for one (1) year.~~

~~\_\_\_\_\_ (h) The Council may, by resolution, remove a member of the Cable Television Board before the member's term has expired if the Council determines that the member has:~~

~~\_\_\_\_\_ (1) Ceased to reside in the City of Takoma Park;~~

~~\_\_\_\_\_ (2) Become incapacitated;~~

~~\_\_\_\_\_ (3) Engaged in misconduct; or~~

~~\_\_\_\_\_ (4) Substantially failed to perform his or her duties as a Cable Television Board member.~~

~~\_\_\_\_\_ (i) Upon the creation of any vacancy on the Board, the Board may recommend for the consideration of the Council a person to fill the remaining term of the member being replaced. The Council shall appoint qualified persons to fill all Board vacancies. Every effort shall be made in the appointment and nomination of members to the Board to assure Board membership broadly representative of the city's population and knowledgeable about community service, fundraising and television production and management~~

~~\_\_\_\_\_ (j) The Board shall cease to exist on November 5, 1991, and the terms of all Board members shall expire on that date.~~

**~~Sec. 2-149. Committees.~~**

~~———— The Board shall establish the following standing committees and others it deems necessary, composed of Board members and city residents, to assist the Board in the performance of its responsibilities:~~

~~———— (a.) Program Committee.~~

~~———— (b) Operations Committee.~~

~~———— (c) Fundraising Committee.~~

~~———— (d) Nominating Committee.~~

**~~Sec. 2-150. Use of municipal channel resources.~~**

~~———— (a) All city staff, equipment, air time and other resources related to the operations of the channel shall generally be shared evenly among municipal and community needs. In the event of conflict, municipal needs shall be met on a priority basis.~~

~~———— (b) All qualified city residents, whose qualifications shall be determined by the City Administrator based on recommendations by the Board, shall have the right of reasonable use of:~~

~~———— (1) The city's video equipment package to produce public access programming for presentation on the channel.~~

~~———— (2) Air time on the channel to present technically acceptable public access programming.~~

~~———— (c) The right of use of the city's video equipment package and channel air time by city residents shall be subject to policies determined by the City Administrator based on recommendations by the Board that ensure the production and presentation of programming consistent with community standards.~~

**~~Sec. 2-151. Funding.~~**

~~———— All receipts associated with the operation of cable television shall be credited to the appropriate receipt line in the city's budget and all expenditures for cable television shall be shown as part of the city's operating budget.~~

**Division 4. Water and Sewer Stormwater Board.**

**Sec. ~~2-152.~~ 2-430. Designation; presiding- officer.**

The Council is designated the ~~Water and Sewer~~ Stormwater Board for the City of Takoma Park. The Mayor shall serve as the Presiding Officer of the ~~Water and Sewer~~ Stormwater Board.

**Sec. ~~2-153~~ 2-431. Membership; conduct of business.**

The voting members of the ~~Water and Sewer~~ Stormwater Board shall be the same as the Council as designated in the 2002 Charter of Takoma Park. Charter provisions governing the conduct of Council business shall be applicable to the ~~Water and Sewer~~ Stormwater Board, and the Board is authorized to adopt such regulations as may be necessary or desirable for its operations and to carry out stormwater management in the City of Takoma Park. ~~Water and Sewer~~ Stormwater Board regulations, if necessary, shall be promulgated in accordance with the procedures set forth in Chapter 2, Article ~~3~~ 5 (Administrative Regulations), of the Takoma Park Code, as amended from time to time.

**Division 5. Public Safety Citizens Advisory Committee.**

**Sec. ~~2-154~~ 2-440. Establishment.**

A Public Safety Citizens Advisory Committee is established, which shall provide input and advice to the ~~City~~ Council and the City's public safety agencies about how the City can better meet the ongoing needs and concerns of residents in the area of police services and public safety.

**Sec. ~~2-155~~ 2-441. Composition.**

The Committee shall be composed of up to twelve members appointed by the Council. The membership may be composed of residents, business owners, property owners, and other persons with interests in the City. The ~~twelve~~ members shall serve staggered two-year terms; ~~with initial appointments of six members to one-year terms and six members to two-year terms.~~ The terms shall begin on October 1<sup>st</sup> and end on September 30<sup>th</sup>. The members shall elect among themselves a Chair.

**Sec. ~~2-156~~ 2-442. Objectives.**

The objectives of the Public Safety Citizens Committee are to:

(a) Act as a conduit between Takoma Park residents, the Takoma Park Police Department and the ~~City~~ Council by soliciting and conveying information regarding community needs and expectations, long range visions and goals, and any problems and/or specific incidents that might arise.

(b) Be an active participant in the continuous process of advising the Council and the Police Department regarding the designing and implementing of policies, plans and programs for

Community Oriented Policing, Neighborhood Watch, and other neighborhood-based crime prevention activities.

(c) ~~Prepare and present an annual report to~~ Make a presentation to the Council at least once a year which will include but not necessarily be limited to discussions and descriptions of community needs and expectations in the public safety area, activities being carried out to address these needs and expectations, and recommendations for making further progress.

(d) (1) Design and implement procedures for carrying out Sec. ~~2-156~~ 2-442 (a), (b) and (c).

(2) In designing and implementing procedures, the Committee shall obtain any needed input and decisions from the Council, the Takoma Park Police Department, and other City agencies.

(e) Attempt to provide the Council, the Police Department, and other appropriate City agencies, with suggestions about how services might be funded.